

HOUSE BILL 1022

By Lynn

AN ACT to amend Tennessee Code Annotated, Section 8-25-204; Section 8-25-205; Title 8, Chapter 34; Title 8, Chapter 35; Title 8, Chapter 36 and Title 8, Chapter 37, relative to retirement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-25-204, is amended by adding the following as a new subsection:

(h) Any individual participating in the optional retirement program established under this part whose position is reclassified from exempt to non-exempt from the Fair Labor Standards Act (29 U.S.C. § 201 et seq.) after at least one (1) year of service in the exempt position shall maintain participation in the optional retirement program with respect to such non-exempt position.

SECTION 2. Tennessee Code Annotated, Section 8-25-205(b), is amended by deleting the subsection in its entirety.

SECTION 3. Tennessee Code Annotated, Section 8-34-101(49), is amended by deleting the subdivision in its entirety and substituting instead the following:

(49) "Teacher":

(A) Means any person employed in a public school, as a teacher, librarian, principal, superintendent or chief administrative officer of a public school system, administrative officer of a department of education, a supervisor of teachers, a reserve officer training corps (ROTC) instructor, or any other position whereby the state requires the employee to be certificated as a teacher, or licensed as a nurse, physical therapist, or occupational therapist in a public school; provided, that any teacher who has taught in the public schools for a

period of at least one (1) year who transfers to a position within the Tennessee public school system that does not require a teacher's certificate shall continue participation in the retirement system as a teacher;

(B) Does not include a physical therapist or an occupational therapist employed with the Metropolitan Nashville Public Schools District; and

(C) Includes any person who is employed in a public school on or after July 1, 1972, as a guidance counselor but who is not retired as of July 1, 2019;

SECTION 4. Tennessee Code Annotated, Section 8-37-502(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) At the time of transmitting the information required pursuant to subsection (a), the employer shall remit to the state treasurer therewith the amount of contributions due under this chapter and chapters 34-36 of this title; provided, however, that employers shall remit payments due to the stabilization reserve trust account within five (5) business days after receipt of an invoice from the retirement system. Failure to so remit such contributions or failure to remit such payments due to the stabilization reserve trust account shall cause them to become delinquent and liabilities to the employer.

SECTION 5. Tennessee Code Annotated, Section 8-35-242, is amended by adding the following new subsection:

(c) The retirement system may permit a public charter school to report and submit funds directly to the retirement system; provided, however, that in the event a public charter school does not report and submit funds as required by chapters 34-37 of this title, the associated local board of education shall provide the required report and funds to the retirement system within fifteen (15) business days of receipt of a written request therefor from the retirement system. For the avoidance of doubt, § 8-37-505 shall apply to the political subdivision associated with the local board of education, such that the retirement system may seek the withholding of the political subdivision's state-shared taxes for payment of employer contributions.

SECTION 6. Tennessee Code Annotated, Section 8-36-202, is amended by deleting the section in its entirety and substituting instead the following:

Any eligible member may retire on a service retirement allowance subsequent to receipt by the board of trustees of an application filed by the member through such medium as shall be prescribed by the state treasurer. At such time designated by the state treasurer, the retirement system may require the use of an electronic medium for the submission of service retirement applications. The director of the retirement system may waive the requirement to submit such application by electronic means for any member who demonstrates in writing that compliance would cause undue hardship to the member as determined by the director of the retirement system.

SECTION 7. Tennessee Code Annotated, Section 8-36-922(a)(1)(B), is amended by deleting the subdivision in its entirety and substituting instead the following:

(B) Four percent (4%), rounded to the nearest whole number, of the earnable compensation of all its participating employees, except as otherwise provided in subdivision (a)(3).

SECTION 8. Tennessee Code Annotated, Section 8-34-503(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) At least once in each six-year period, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system, and taking into account the results of such investigation, the board of trustees shall adopt for the retirement system such mortality, service, and other tables as are deemed necessary. The board of trustees shall begin using the tables on July 1 of the year following the action of the board of trustees.

SECTION 9. Tennessee Code Annotated, Section 8-35-107, is amended by adding the following as a new subsection:

(d) In the event an employee completes a period of temporary employment with an employer pursuant to this section and subsequently terminates employment for any reason, such employer shall not require the employee to complete an additional period of temporary employment in the event the employee is ever rehired by the same employer.

SECTION 10. Tennessee Code Annotated, Section 8-34-604(e)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3) The sick leave plan provides for service credit for a member's unused paid time off; provided, that the eligibility requirements for participation in the plan do not permit an employee to become a member only in the plan year in which the member terminates employment.

SECTION 11. Tennessee Code Annotated, Title 8, Chapter 36, Part 1, is amended by adding the following as a new, appropriately designated section:

A current early service retiree shall not change to disability retirement. A current disability retiree shall not change to early service retirement.

SECTION 12. Tennessee Code Annotated, Section 8-36-125(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c) If a disclaimer is made under this section, the disclaiming beneficiary's share shall be distributed to the remaining beneficiary or beneficiaries in equal proportions.

SECTION 13. Tennessee Code Annotated, Section 8-36-903(c)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3) Notwithstanding this subsection (c), § 8-35-109, or any other law to the contrary, any person who becomes a state judge, district attorney general, or member of the general assembly on or after July 1, 2016, and who has not otherwise maintained membership in the retirement system based on previous service as a state employee or

teacher, shall, upon the initial date of taking office, file an irrevocable election to become or not to become a participant in the hybrid plan. Any person serving as a state judge, district attorney general, or member of the general assembly on June 30, 2016, and who is not a participant in the hybrid plan or who has not otherwise maintained membership in the retirement system based on previous service as a state employee or teacher, shall, by no later than October 31, 2016, file an irrevocable election to become a participant in the hybrid plan.

SECTION 14. Tennessee Code Annotated, Section 8-35-109, is amended by deleting the section in its entirety and substituting instead the following:

Any person who becomes a state judge, a county judge, a county official, a commissioner, a county chair, an elected or appointed official of the general assembly, or any district attorney general and any assistant thereto by whatever name called, on or after July 1, 1983, shall not become a member of the retirement system, unless such person elects to become a member of the system and is otherwise eligible for membership. The election shall be made in the manner prescribed by the retirement system and shall be filed with the retirement system.

SECTION 15. This act shall take effect upon becoming a law, the public welfare requiring it.